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November 21, 1991

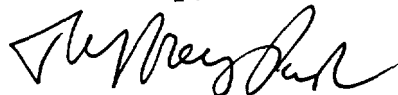
Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: MM Docket No. 91-221

Dear Ms. Searcy:

Enclosed for filing please find an original and five copies of comments of the National Football League regarding the above referenced Docket Number. Also enclosed is a copy to be stamped and returned.

Sincerely,



Jeffrey Pash

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Review of the Policy Implications) MM Docket No. 91-221
of the Changing Video Marketplace)

To: The Commission

COMMENTS OF THE NATIONAL FOOTBALL LEAGUE

The National Football League ("NFL") submits these comments with respect to the Report of the Office of Plans and Policies entitled "The Future of Broadcast Television in a Multichannel Market" ("OPP Report"). The NFL's comments are specifically directed to that portion of the OPP Report that addresses sports programming.

At page 79, the OPP Report makes the following statement concerning the NFL's current contracts with two cable networks, ESPN and Turner Network Television ("TNT"):

"Some sports programming on cable did not and would not appear on broadcast television, but some of it has 'migrated' or has been 'siphoned' from broadcast television. The National Football League (NFL) packages on ESPN and TNT are the best but not the only examples of this phenomenon.

"The NFL contracts with cable networks have increased the number of games available nationally to those with cable service. Moreover, because those contracts require the cable services to make their NFL games available to broadcast stations in the home markets of the teams that are playing, home town fans without cable service are not deprived of access to their teams' games."

In certain respects, the OPP Report accurately describes the NFL's contracts with the cable networks. As the OPP Report recognizes, the games are available not solely on cable, but also on broadcast television in the markets of the participating teams. More important, the cable agreements take games that would otherwise be available only on a regional basis, and instead make them available throughout the country.

This reality underscores an important error in the OPP Report. No NFL games have "migrated" or been "siphoned" from broadcast to cable television. Nothing has been taken from broadcast television. Instead, the League's contracts with the cable networks have brought additional games to fans across the country and are therefore a supplement to what is available on broadcast television. Under the NFL's television agreements, a fan in Washington will have 90 or more games available on broadcast television during the current season, and will also have available an additional national game on a cable network each week. Absent the cable contracts, those national games would have been regional games, televised on Sunday afternoon, and unavailable to most of the country.

NFL policies regarding the number of games televised in a market on Sunday afternoon were established in 1970 and remain unchanged to this day. Two games are televised (by CBS or NBC) in a city where an NFL team is playing a home game

that afternoon, and a third is offered if the home team is not playing at home that afternoon.

A specific example illustrates this point. In 1989, the inaugural ESPN telecast featured the Washington Redskins against the Dallas Cowboys at RFK Stadium at 8:00 p.m. Although this game was played on Sunday evening rather than on Sunday afternoon, NFL fans in both Washington and Dallas continued to have a full array of afternoon NFL telecasts available to them on broadcast television. Specifically, earlier on that Sunday, fans in Washington saw the Los Angeles Rams play the Minnesota Vikings at 1:00 p.m. on CBS, and the Cincinnati Bengals play the Los Angeles Raiders at 4:00 p.m. on NBC. In Dallas, at 1:00 p.m., Eastern time, both the Cleveland-Tampa Bay game on NBC and the Chicago-Green Bay game on CBS were televised. At 4:00 p.m., Eastern time, the fans in Dallas saw the Raiders-Bengals game on NBC. In addition, the fans in both Dallas and Washington saw the Cowboys-Redskins game on both broadcast television and on ESPN at 8:00 p.m., and the remainder of the country had access to this game at 8:00 p.m. on ESPN. Prior to the League's contract with ESPN, the Cowboys-Redskins game would have been televised in both Dallas and Washington at 1:00 p.m. At 4:00 p.m., another game would have been televised in both Washington and Dallas by NBC. And of course there would have been no game at 8:00 p.m. Far from taking games away, the ESPN agreement made it possible for fans in Dallas, Washington, and elsewhere to

see an additional NFL game on that Sunday. This is true today with respect to the NFL's agreements with both ESPN and TNT. The attached chart outlines these various television patterns.

Moreover, the circumstances that led to the NFL's decision to televise games on cable networks demonstrate that those agreements are not examples of the "migration" or "siphoning" of sports programming. Instead, the bulk of the games that made up the NFL's initial cable package (with ESPN in 1987-89) were games that the broadcast networks, for a variety of reasons, were unwilling to continue to purchase at any reasonable price. Between 1978-86, ABC televised a number of prime time "specials" on Sunday and Thursday nights. The ratings for those games were disappointing, and when the NFL began negotiations with ABC on a new contract for the 1987-89 seasons, ABC advised that it was no longer interested in this package of "special" games. Nor did any of the other major broadcast networks express any substantial interest in the specials package. Faced with these circumstances, the League then offered an eight-game package to ESPN.

In circumstances such as these, the NFL's Sunday night cable package is simply not an example of sports events "migrating" or being "siphoned" from broadcast television -- let alone the "best" example of this phenomenon. The broadcast networks were not outbid as a result of cable's dual revenue streams. Instead, cable secured the Sunday night games because the broadcast network which originally televised

them (ABC) was no longer interested in doing so, and the other two major broadcast networks (NBC and CBS) already had Sunday NFL packages. Properly understood, this was not a migration of those games from the broadcast networks so much as it was an eviction of those games by the broadcast networks.

The net result of the cable agreements has been to make more football available to more fans. NFL games have both attracted many new subscribers to ESPN and TNT and earned the highest ratings of any programming on those networks. These figures are persuasive evidence that fans throughout the country support the NFL's television policies and its judicious use of cable television.

Respectfully submitted,

THE NATIONAL FOOTBALL LEAGUE

By:



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Its Attorney

Dated: November 21, 1991

**EFFECT OF NFL USE OF CABLE ON NUMBER OF GAMES
AVAILABLE TO NFL FANS**

E.g.: November 5, 1989, Sunday (Ninth Weekend)

Dallas Cowboys vs. Washington Redskins
(in Washington, D.C.)

1. IF GAME IS AT 1:00 P.M.

<u>TV Market</u>	<u>TV Coverage By Time Slot (EST)</u>		
	<u>1:00 P.M.</u>	<u>4:00 P.M.</u>	<u>8:00 P.M.</u>
Dallas	Cleveland @ Tampa Bay (NBC/KXAS-Channel 5)	Cincinnati @ LA Raiders	(no game)
	Dallas @ Washington (CBS/KDFW-Channel 4)		
Washington	Dallas @ Washington (CBS/WUSA-Channel 9)	Cincinnati @ LA Raiders (NBC/WRC-Channel 4)	(no game)

2. IF GAME IS AT 8:00 P.M.

<u>TV Market</u>	<u>TV Coverage By Time Slot (EST)</u>		
	<u>1:00 P.M.</u>	<u>4:00 P.M.</u>	<u>8:00 P.M.</u>
Dallas	Cleveland @ Tampa Bay (NBC/KXAS-Channel 5)	Cincinnati @ LA Raiders (NBC/KXAS-Channel 5)	*Dallas @ Washington
	Chicago @ Green Bay (CBS/KDFW-Channel 4)		
Washington	LA Rams @ Minnesota (CBS/WUSA-Channel 9)	Cincinnati @ LA Raiders (NBC/WRC-Channel 4)	*Dallas @ Washington

*Game is televised on KXAS/NBC in Dallas/Ft. Worth market and on WUSA/CBS in the Washington, D.C. market and ESPN in home cities of the two participating teams. Game is televised on ESPN in the remainder of the regional markets around the home cities.